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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:)	BK-09-16749-MKN
)	
FRANCISCO JAVIER GARCIA)	CHAPTER 13
)	
)	MOTION TO SET ASIDE ORDER FOR
)	RELIEF FROM STAY
)	
)	DATE: ON OST
Debtor(s).)	TIME: ON OST
)	

COMES NOW the above-named debtor, FRANCISCO JAVIER GARCIA (hereinafter “**Debtor**”), by and through their attorney of record, Jorge L. Sanchez, of the law firm of Sanchez Law Group, Ltd., and, for good cause, move this Honorable Court pursuant to Bankruptcy Rule of Procedure 9024 for an Order setting aside the Order for Relief from Stay granted to the creditor, US Bank (hereinafter “**US Bank**”), on July 7, 2009 for Debtors’ real property located at 3106 Cumming Court, North Las Vegas, NV 89030. In support thereof, Debtors state as follows:

- 1) Debtors filed a voluntary petition for bankruptcy relief pursuant to Chapter 13 of the Bankruptcy Code on April 30, 2009 (“**Filing Date**”).
- 2) On the Filing Date, Debtors owned real property located at 3106 Cummings Court, North Las Vegas, NV 89030 (hereinafter “**Subject Property**”), which Subject Property had an appraised fair market value of approximately \$144,000.00. This property was and continues to be Debtor’s primary residence.

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- 3) On the Filing Date, ASC held a first mortgage loan on the Subject Property in the amount of \$152,026.00.¹
- 4) Debtor has attempted to make timely payments via Western Union. However, said attempts have been unsuccessful because ASC has refused accepting the same. See Exhibit "A" hereto.
- 5) Debtor is ready, willing, and able to bring his mortgage current; however, ACS's refusal to accept his payments has prevented debtor's successful tender of the same.
- 6) Pursuant to 11 U.S.C. § 361 and in light of Debtors' proposed attempted payments, ASC's reason for requesting relief from the stay was not valid.
- 7) Under Federal Rule of Civil Procedure 60 as incorporated under Bankruptcy Rule of Procedure 9024, this Honorable Court has the authority to set aside an order due to a "mistake arising from oversight or omission whenever one is found in an ... order..." Fed. R. Civ. P. 60(a). This Court also has the authority to do the same upon motion when an order was entered as a result of a general "mistake" or "inadvertence." Id. at 60(b)(1).
- 8) Since no valid reason existed for this Honorable Court to enter an Order granting ASC's motion for relief from stay, it must have been due to mistake, oversight and or inadvertence.

WHEREFORE, Debtors, by counsel, respectfully request this Honorable Court to enter an order setting aside the order terminating the stay in favor of US Bank on the Subject Property and for any other relief it deems proper.

Dated this the 22nd day of September, 2009.

¹ Based on Schedule "D" of Debtors' Petition.

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/s/Jorge L. Sanchez, Esq.
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